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### **REMARKS**

This response is intended as a full and complete response to the non-final Office Action mailed on January 25, 2007. In the Office Action, the Examiner notes that claims 1-3, 6-7 and 10-21 are pending and rejected.

In view of the following remarks, Applicants submit that none of the claims now pending in the application are obvious under the provisions of 35 U.S.C. §103. Thus, Applicants believe that all the claims are allowable.

It is to be understood that Applicants do not acquiesce to the Examiner's characterizations of the art of record or to Applicants' subject matter recited in the pending claims. Further, Applicants are not acquiescing to the Examiner's statements as to the applicability of the art of record to the pending claims by filing the instant response.

### **REJECTIONS**

#### **REJECTION UNDER 35 U.S.C. §103**

##### **Claims 1-3, 6-7 and 10-21**

The Examiner has rejected claims 1-3 and 6-7 and 10-21 under 35 U.S.C. §103(a) as being unpatentable over Pandya et al. (USPN 6,671,724, hereinafter "Pandya").

The test under 35 U.S.C. §103 is not whether an improvement or a use set forth in a patent would have been obvious or non-obvious; rather the test is whether the claimed invention, considered as a whole, would have been obvious. Jones v. Hardy, 110 USPQ 1021, 1024 (Fed. Cir. 1984) (emphasis added). Moreover, the invention as a whole is not restricted to the specific subject matter claimed, but also embraces its properties and the problem it solves. In re Wright, 6 USPQ 2d 1959, 1961 (Fed. Cir. 1988) (emphasis added). The Pandya reference fails to teach or suggest Applicants' invention as a whole.

Applicants' independent claims 1, 19 and 20 recite:

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1. A method for monitoring, from a remote location comprising a monitor and control unit, operations of a head-end in an information distribution system, the method comprising:

- receiving at the monitor and control unit status from the head-end relating to operations performed at the head-end;
- displaying, via a graphical user interface, at the monitor and control unit the status from the head-end relating to operations performed at the head-end;
- providing, via the graphical user interface, a user configurable menu to define error conditions;
- providing, via the graphical user interface, an option to activate an audible alert when error conditions are detected;
- receiving identities of a plurality of remote devices designated to receive status from the head-end via the monitor and control unit;
- receiving an indication of capabilities of each remote device of the plurality of remote devices designated to receive status;
- forwarding at least a subset of the received status from the monitor and control unit to the plurality of remote devices, wherein status are forwarded to each remote device of the plurality of remote devices in conformance with the indicated capabilities;
- receiving a response message from a particular remote device; and
- forwarding the response message to the head-end wherein the received response message from the particular remote device includes a command to adjust at least one parameter of a particular operation performed at the head-end. (emphasis added).

19. A method for monitoring, from a remote location, operation of a head-end in an information distribution system, the method comprising:

- at the remote location, receiving information from the head-end relating to one or more operations performed at the head-end, wherein the received information includes status and indications of possible error conditions relating to the one or more operations performed at the head-end;
- displaying, via a graphical user interface, at a monitor and control unit the received information;
- providing, via the graphical user interface, a user configurable menu to define error conditions;
- providing, via the graphical user interface, an option to activate an audible alert when error conditions are detected;
- receiving, at the remote location, identities and indications of capabilities of one or more remote devices designated to receive the information relating to the one or more operations performed at the head-end; and
- forwarding at least a subset of the received information from the remote location to the one or more remote devices in conformance with the indicated capabilities;
- receiving a response message from a particular remote device; and

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forwarding the response message to the head-end wherein the received response message from the particular remote device includes a command to adjust at least one parameter of a particular operation performed at the head-end. (emphasis added)

20. A method for remotely monitoring and controlling operation of a head-end in an information distribution system, comprising:  
maintaining identities and indications of capabilities of one or more remote devices designated to receive information relating to one or more operations performed at the head-end;

displaying, via a graphical user interface, at a monitor and control unit the received information;

providing, via the graphical user interface, a user configurable menu to define error conditions;

providing, via the graphical user interface, an option to activate an audible alert when error conditions are detected;

providing, from a remote location to one or more remote devices, status from the head-end relating to one or more operations performed at the head-end in conformance with the indicated capabilities;

receiving, at the remote location, from a particular remote device one or more response messages; and

adjusting at least one parameter of a particular operation performed at the head-end in accordance with the one or more response messages. (emphasis added).

The present invention is directed, in part, toward a method to allow personnel with a remote device such as a cell phone or pager to receive a status from the head-end via a monitor and control unit and to send a response message back from the remote device to the head-end via the monitor and control unit to adjust a parameter of an operation of the head-end. In an exemplary embodiment, a monitor comprises a graphical user interface to display various information and provide various functionality. (See Applicants' specification, p. 23, ll. 1-19.) Moreover, error conditions may be monitored, reported and defined via the present invention. (See Applicants' specification, p. 25, ll. 15-22.)

Pandya fails to teach or to suggest a graphical user interface, at a monitor and control unit to display the status or received information, provide a user configurable menu to define error conditions or provide an option to activate an audible alert when error conditions are detected relating to one or more operations performed at the head-end, as positively recited in the Applicants' independent claims.

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The Applicants note the Examiner's rebuttal that Pandya teaches a graphical user interface. (See Pandya, col. 6, ll. 42-66; FIGs. 13-17.) However, the Applicants respectfully submit that none of the graphical user interfaces taught by Pandya teach displaying the status or received information. Although, Pandya may monitor and use status or received information, Pandya does not explicitly teach displaying this information via the graphical user interface. The graphical user interface taught by Pandya only provides the ability to manage configuration information of the control points and agents. (See Pandya, col. 20, l. 44 – col. 21, l. 54.)

As noted by the Examiner, Pandya teaches a graphical user interface for managing configuration information for the control points and agents. (See Pandya, col. 6, ll. 42-66.) However, the configuration information includes, for example, designating control points as secondary connections, specifying bandwidth available, grouping users, setting optimum and minimum performance levels and configuring resource reallocation intervals. (See Pandya, col. 20, l. 44 – col. 21, l. 54.) Notably, Pandya fails to explicitly teach that any of the configurable options via the graphical user interface are related to defining error conditions. In contrast, the Applicants invention teaches providing, via the graphical user interface, a user configurable menu to define error conditions.

In addition, as previously argued Pandya fails to teach or suggest providing an option to activate an audible alert when error conditions are detected relating to one or more operations performed at the head-end. The Examiner concedes this in the Office Action. (See Office Action dated 1/25/07, p. 3, ll. 12-21.) However, the Examiner takes Official Notice and asserts that it is notoriously well known in the art of monitors and control units to provide an option for activating/visual alerts when error conditions are detected.

The Applicants respectfully submit that the Examiner has failed to properly establish Official Notice. Under MPEP 2144.03, the Examiner cannot rely on conclusory statements when dealing with particular combinations of prior art and specific claims, but must set forth the rationale on which it relies. In re Lee, 277 F.3d 1338, 1344-45, 61 USPQ2d 1430, 1434-35 (Fed. Cir. 2002), emphasis added.

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Moreover, there must be some form of evidence in the record to support an assertion of common knowledge. See *Id.*

The Examiner's self proclaimed "notoriousness" in the art of monitors and control units, which incorporate the use of a graphical user interface, to provide an option for activating audio/visual alerts when error conditions are detected for the advantage of immediately informing or notifying a user of the monitor and control unit that one or more error conditions are detected is clearly "conclusory". Furthermore, Applicants respectfully submit that the allegedly "notoriously well known" features of Applicant's invention may not be well known in the art of monitoring and control unit graphical user interface systems. Therefore, without supporting evidence the Examiner fails to properly establish Official Notice.

As a result, the Examiner is required to support his or her finding with adequate evidence. Applicants respectfully request that the Examiner provide references showing the allegedly "notoriously well known" features of Applicants' invention. Alternatively, the Examiner is required by 37 CFR 1.104(d)(2), to support the finding of what is known in the art by providing an affidavit or declaration setting forth specific factual statements and explanation to support the finding.

Consequently in light of the remarks above, Applicants submit that Pandya does not teach Applicants' invention of at least independent claims 1, 19 and 20 as a whole and, as such, claims 1, 19 and 20 are not obvious in view of Pandya. It is believed that independent claims 1, 19 and 20 are allowable under 35 U.S.C. §103.

Furthermore, dependent claims 2-3, 6-7, 10-18 and 21 depend directly or indirectly from independent claims 1, 19 and 20 and recite additional limitations thereof. As such and for at least the same reasons discussed above with respect to independent claims 1, 19 and 20, Applicants submit that these dependent claims are also non-obvious and patentable over Pandya under 35 U.S.C. §103. Therefore, Applicants respectfully request that the rejection be withdrawn.

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**CONCLUSION**

Applicant submits that claims 1-3 and 6-7, 10-21 are in condition for allowance. Accordingly, reconsideration and allowance are respectfully solicited.

If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Eamon J. Wall or Jimmy Kim at (732) 530-9404 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

Dated: 4/24/07

  
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